

**Iowa Department of Natural Resources
Natural Resource Commission**

ITEM

11

DECISION

TOPIC

Notice of Intended Action – Chapter 61, State Parks and Recreation Areas

The Department requests Commission approval for publication of a Notice of Intended Action to amend Chapter 61 “State Parks and Recreation Areas.” The amendment rescinds subrule 61.7(2) in order to restructure the subrule to include a new paragraph. The new paragraph provides a provision to allow persons to swim outside the designated swim area from sunrise and sunset by registering at a state park or recreation area. The new paragraph also provides conditions the swimmer must follow for visibility purposes. Those conditions include that the swimmer must be accompanied by a person in a vessel and that the swimmer stay within 20 feet of the vessel at all times. In addition, the vessel must display a 12 inch square, bright orange flag which can be seen all around the horizon.

These changes are a result of a petition for rule making the Department received from a triathlete requesting a rule change to allow triathletes the opportunity to train in state park and state recreation area lakes outside of the designated swim area. Staff met with the petitioner to discuss the request and presented information to the commission at the November 2008 meeting.

Kevin Szcodronski, State Parks Bureau Chief
Conservation and Recreation Division
December 11, 2008

Attachment: NOIA - Chapter 61, State Parks and Recreation Areas

**DEPARTMENT OF NATURAL RESOURCES[571]
Notice of Intended Action**

Pursuant to the authority of 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 61, “State Parks and Recreation Areas,” Iowa Administrative Code.

The amendment rescinds subrule 61.7(2) in order to restructure the subrule to include a new paragraph. The new paragraph provides a provision to allow persons to register at a park to swim outside the designated swim area from sunrise and sunset. The new paragraph also provides conditions the swimmer must follow for visibility purposes. Those conditions include that the swimmer must be accompanied by a person in a vessel at all times and that the swimmer stay within 20 feet of the vessel at all times. In addition, the vessel must display a 12 inch square, bright orange flag which can be seen all around the horizon. These changes are a result of a petition for rule making received from a triathlete requesting a change to allow triathletes the opportunity to train in state park and state recreation area lakes outside of the designated swim area.

Any interested person may make written suggestions or comments on the proposed amendments on or before February 3, 2009. Such written materials should be directed to the State Parks

Bureau; Department of Natural Resources; 502 East Ninth Street; Wallace State Office Building; Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Bureau at (515)242-6233 or at the State Parks Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on February 3, 2009, from 2 p.m. to 4 p.m. and 6 p.m. to 8 p.m. at the Wickiup Hills Outdoor Learning Center near Toddville, Iowa, and February 4, 2009 at 10 a.m. in the Fourth Floor East Conference Room in the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code Sections 461A.35 and 461A.44.

The following amendment is proposed.

Rescind subrule 61.7(2) and adopt the following **new** subrule in lieu thereof:

61.7(2) Beach use/swimming.

a. Except as provided in paragraphs “b,” “c,” and “d” of this subrule, all swimming and scuba diving shall take place in the beach area within the boundaries marked by ropes, buoys, or signs within state parks and recreation areas. Inner tubes, air mattresses and other beach-type items shall be used only in designated beach areas.

b. Persons may scuba dive in areas other than the designated beach area provided they display the diver’s flag as specified in rule 571—41.10(462A).

c. Persons may swim outside the beach area under the following conditions:

(1) Swimming must take place between sunrise and sunset.

(2) The swimmer must be accompanied by a person operating a vessel and must stay within 20 feet of the vessel at all times during the swim.

(3) The vessel accompanying the swimmer must display a flag, which is at least 12 inches square, is bright orange, and is visible all around the horizon.

(4) Persons swimming pursuant to this subrule must register with the park staff in charge of the area and sign a registration immediately prior to the swim.

d. Unless otherwise posted, persons may also swim outside the beach area under the following conditions:

(1) Within ten feet of a vessel which is anchored not less than 100 yards from the shoreline or the marked boundary of a designated beach.

(2) Sailboat or other vessel passengers who enter the water to upright or repair their vessel and remain within ten feet of that vessel.

(3) All vessels, except those being uprighted, must be attended at all times by at least one person remaining on board.

e. The provisions of paragraph “a” of this subrule shall not be construed as prohibiting wading in areas other than the beach by persons actively engaged in shoreline fishing.

Date

Richard A. Leopold, Director